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May 18, 2011

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Office of Proceedings

MAY 17 2011

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Public Record

**VIA E-FILE**

The Honorable Cynthia T. Brown  
Chief, Section of Administration  
Surface Transportation Board  
395 E. Street, S.W., Room #100  
Washington, DC 20423-0001

**Re: Union Pacific Railroad Company – Abandonment Exemption – In  
Lafayette County, MO.; Docket No. AB-33 (Sub No. 297X)**

Dear Ms. Brown:

This letter will serve as the Reply of Union Pacific Railroad Company ("UP") to the "Motion to Strike" filed May 10, 2011 by "Robert Alan Kemp, d/b/a Nevada Central Railroad" ("Kemp"). While styled as a "Motion to Strike," Kemp's Motion is actually an impermissible reply to a UP Reply filed on April 20, 2011. The April 20 Reply advised the Board that UP had withdrawn its offer to Mr. Kemp to negotiate a non-OFA acquisition of all or part of the above line, and included a copy of an April 20 letter UP sent to Kemp advising him that the reason for this action was his abusive conduct with UP personnel.

There is no merit to Kemp's Motion and it should be denied:

(1) Mr. Kemp has failed to assert any legitimate grounds for striking UP's April 20 Reply. UP's Reply accurately states that UP had terminated negotiations with Mr. Kemp. The April 20 letter attached to the Reply is an accurate copy of the letter UP sent to Mr. Kemp, and accurately describes the reasons UP terminated negotiations. To the extent any sense can be made from Kemp's Motion, he appears to be complaining that UP personnel had told him in March that UP would negotiate with him and provide him with certain NLV information. But that occurred before his threatening and abusive April 1 telephone call to UP personnel. As stated in the UP's April 20 letter, this call was the immediate reason for the termination of negotiations.

(2) The Kemp Motion demonstrates on its face the kind of unprofessional, threatening and abusive conduct that led to the termination of negotiations. The Motion is little more than a rambling tirade directed at UP, the Federal judge who dismissed his

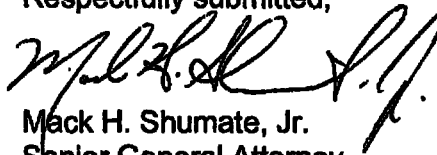


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lawsuit in November<sup>1</sup>, and U. S. Senator Harry Reid. Kemp even makes an incredible and insulting accusation that the judge is "a practicing Psychotic Member of the MORMAN ORGANIZED CRIME CARTEL" (Kemp Motion, p. 4, Par #4, capitalization in original).

This is not an isolated occurrence. Kemp has made numerous filings accusing members of the Board's staff, federal, state and local government officials, UP and other private entities of criminal activity, including fraud, conspiracy, theft, espionage, etc. (see, for example, Kemp's October 27, 2008 "Motion to Strike" in Docket No. AB-33 (Sub-No. 230X)). There is no excuse for this pattern of conduct, and it is a clear violation of the Board's rules, see 49 CFR 1103.12 and 1103.25.

Respectfully submitted,



Mack H. Shumate, Jr.  
Senior General Attorney

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<sup>1</sup> Kemp v State of Nevada, et. al., 2010 WL 4974569 (D. Nevada, November 29, 2010). Kemp's motion claims that UP "misquoted" this decision in its April 20 letter. However, the court decision clearly shows that the judge dismissed the case because Kemp's complaint was "incomprehensible" and that Kemp had failed to show any unlawful conduct either in the complaint or in oral argument, as UP accurately stated in its letter. Kemp goes on to complain that UP failed to attach a complete copy of the court decision to its letter for the Board to see. This is frivolous, since UP provided a citation where the entire decision is available.

### **CERTIFICATE OF SERVICE**

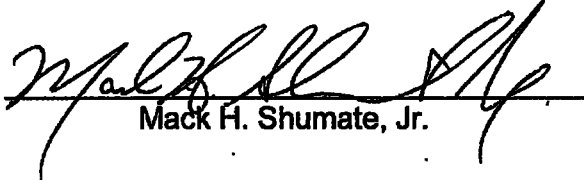
I certify that I have on this date served the foregoing document on the following:

Robert Alan Kemp  
d/b/a Nevada Central Railroad  
2741 Pinewood Avenue  
Hendersen, NV 89074

City of Lexington  
929 Franklin Avenue  
Lexington, MO 64067

Service was made by First Class United States Mail with postage prepaid.

Dated at Chicago, Illinois this 18 th day of May, 2011.



Mack H. Shumate, Jr.